

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

RAMON ARMAS BORROTO, JR.

Plaintiff,

vs.

Case No. 5:04CV165-RH/WCS

**L. MCDONALD, PATE,
MCKENZIE and KENT.**

Defendants.

_____ /

Defendants' Response in Opposition to Motion to Compel

Defendants McDONALD, PATE, McKENZIE, and KENT, through undersigned counsel, respond in opposition to Plaintiff's "Response to this Court's January 17, 2007 Order" (doc. 90), to the extent that it is construed as a motion to compel. Defendants state the following:

1. The parties were permitted to engage in the discovery process. Doc. 83.
2. Plaintiff requested Defendants produce several documents. Doc. 82.
3. Defendants served their response and objections on January 3, 2007. Plaintiff has not sent any correspondence to counsel for Defendants regarding Defendants' response and objections.
4. Now, a month later, while acknowledging that he was given the opportunity to hear the audio tapes from the Inspector General's Report, the opportunity to review his medical file, and provision of the Quad Four portion of G-Dorm bed assignments for November 28, 2002 (which was served with Defendants' response and objections), Plaintiff argues that the case is not ready to proceed past the discovery stage and makes what appears to be a very general motion

to compel. (Doc. 90)

5. Plaintiff's motion to compel does not include a certification that he has corresponded with Defendants's counsel regarding any of Defendants' responses or objections. See Doc. 90. Plaintiff's motion does not substantively discuss Defendants' response and/or objections regarding particular discovery items. See Doc. 90. Plaintiff says only in the most general terms that the discovery is "essential for the plaintiff's preparation for trial." See Doc. 90. He offers no support or details as to how the individual items responded to are insufficient or why the objections supplied to him should be overruled. See Doc. 90.

6. Defendants contend that Plaintiff's motion to compel is insufficient, and oppose Plaintiff's motion to compel.

Memorandum of Law

Federal Rule of Civil Procedure 37(a)(2)(A) states, in pertinent part, that the motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. Plaintiff has not provided this Court with certification that he has corresponded with counsel for Defendants regarding Defendants' responses and objections to Plaintiff's production request.

Further, Northern District Local Rule 26.2(B) states:

Motions to compel discovery in accordance with Fed. R.Civ. P. 33, 34, 36 and 37 shall (1) quote verbatim each interrogatory, request for admission, or request for production to which objection is taken, (2) quote in full the opponent's specific objection, and (3) state the reasons such objection should be overruled and the motion granted.

Plaintiff's motion to compel does not substantively discuss Defendants' response and objections. See Doc. 90. Plaintiff offers no support or details for how the individual items responded to are insufficient or why the objections supplied to him should be overruled. See Doc. 90.

Accordingly, Plaintiff's motion does not comply with Northern District Local Rule 26.2(B).

WHEREFORE, Defendants respond in opposition to Plaintiff's response to Plaintiff's Motion to Plaintiff's "Response to this Court's January 17, 2007 Order" (doc. 90), to the extent that it is construed as a motion to compel, and urges the Court to deny the motion.

Respectfully Submitted,

BILL McCOLLUM
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s/ Joy A. Stubbs
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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: RAMON BORROTO, DC# X27467. Florida State Prison, 7819 NW 228th Street, Raiford, FL 32026 on the 16th day of February 2007.

s/ Joy A. Stubbs
JOY A. STUBBS